

Attorney Jennifer DeMaster

From: Adams, Charles <Charles.Adams@sheboyganwi.gov>
Sent: Friday, January 13, 2023 10:33 AM
To: Attorney Jennifer DeMaster
Cc: Hoffman, Kathryn; Majerus, Liz; James R. Macy
Subject: Record release
Attachments: Closed session 10-17-22.pdf; Closed 10-24-22.pdf; Closed 11-7-22.pdf; Closed Session 1.4.23.PDF

Atty. DeMaster:

I am attaching minutes from four closed sessions of the Common Council.

I am doing so for two reasons: First, you requested the release of the minutes of the October 17, 2022 meeting. I believe that request, which could not have been fulfilled prior to Monday night, is now fulfillable. Second, we have received a public records request for these minutes.

In my opinion, these minutes became releasable after the public vote to terminate Mr. Wolf per section 12(a) of his contract. In reviewing the request and applying the public records law, including application of the balancing test, I believe I am obligated to release the document with no redactions except the one redaction made, which relates to a closed session item on January 4 entirely unrelated to Mr. Wolf's situation. However, because of the potential that these records could have a negative public impact on Mr. Wolf as our former employee and because there is at least a colorable argument that Wis. Stats. § 19.356(2)(a)1 could apply to this circumstance, I have chosen to follow the dictates of that statute and provide notice to you of my intent to release. As you are certainly aware, you may, within five days after receiving this notice, provide written notice to me on behalf of the City of your intent to seek a court order restraining us from providing access, and/or to commence such an action within ten days. Per the statute, I will not release within 12 days of this notice to you unless you specifically inform me that you do not object.

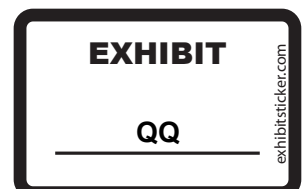
I would ask that you confirm receipt of this email as Mr. Wolf's counsel and confirm that you accept it as notice of my intent in lieu of personal service on Mr. Wolf.

I would note that one requester has alleged that Mr. Wolf has already waived this privilege. However, I do not believe the requester has the standing to make that claim. Additionally, I read the release you provided with regard to the October 17 meeting as applying solely to release to Mr. Wolf or to you as his counsel. I would also note that any requestor will receive a copy of this notice in lieu of a release of the records until such time as you either waive release of the records or until the provisions of Wis. Stats. § 19.356(2)(a)1 are met.

I look forward to hearing from you on this matter.

Chuck

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Local government is the foundation of democracy, if it fails, democracy will fail--Robert W. Flack

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